

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF PUBLIC MEETING**

DATE.....June 17, 2003
TIME.....4:30 P.M.
PLACE.....COUNTY OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

Jan Mills
Karl Rutherford
Steve Schreckengast
Mark Hermodson
Gary Schroeder
Jack Rhoda
KD Benson

STAFF PRESENT

James Hawley
Sallie Fahey
Margy Deverall
Jay Seeger, Atty.

Jan Mills called the meeting to order.

I. APPROVAL OF JUNE 4, 2003 MEETING MINUTES

Mark Hermodson moved to approve the minutes from June 4, 2003. Jack Rhoda seconded and the motion was carried by voice vote.

II.MISCELLANEOUS PROPOSED ORDINANCE AMENDMENTS:

- A. Allowing changeable copy signs in rural districts.
- B. Proposed changes to gateway signs.
- C. Proposed changes to temporary sign permits; and
- D. Proposed new buffering requirements for rural home occupations.

III.PROPOSED CHANGES TO THE UZO USE TABLE REGARDING VOCATIONAL REHABILITATION AND TREATMENT CENTERS.

Sallie Fahey suggested that agenda items **II** and **III** above, be discussed at the July 2, 2003 Ordinance Committee meeting, in order to complete the RE Subdivision discussion today. She mentioned that this change would not affect the filing deadline for the August meeting for any of these items.

Jan Mills agreed.

IV.RURAL ESTATE SUBDIVISION PROCEDURE (USO 3.6)

Sallie Fahey referred to section 5.13 and recapped the status of the road design issues. She informed the Committee that she discussed those issues with Mark Albers and he will in turn discuss them with the County Commissioners before making a presentation at the July 15, 2003 Ordinance Committee meeting. She mentioned that she and Jay Seeger have been working on a document regarding the re-granting of an easement if a rural estate subdivision derives it's access through an existing private drive, and should have it ready for review at the July 15, 2003 meeting. She explained that that document would be approved in an ordinance amendment as a part of the appendix.

She reviewed the proposed changes to section 3.6 (1), regarding pre-submission meetings and section 3.6(2) regarding attendance and scheduling of checkpoint agencies at pre-submission meetings.

Karl Rutherford asked if a checkpoint agencies absence from a meeting would stop the process.

Sallie Fahey replied negatively. She suggested allowing the Trustee or a designee to attend.

Karl Rutherford stated that would be more productive.

There were no objections to adding "or designee" to section 3.6(2).

Karl Rutherford pointed out that if a designee would like input, they have a duty to attend the meeting. He explained that if a designee did not have any concerns, why should they have to attend.

Sallie Fahey explained what happens during a pre-submission meeting and the roles that each checkpoint agency has. She stated that at the pre-submission meeting stage the checkpoint agencies attend in order to gather information rather than present information.

James Hawley stated that might not be the case for the Trustee or their designee, because they might be trying to protect the new development in their jurisdiction.

Karl Rutherford stated that he agreed that a Trustee or designee should attend. He asked if checkpoint agencies that do not have anything to present should be required to attend.

Sallie Fahey stated that they are not required to attend, but she does not want anyone excluded due to a scheduling conflict. She reviewed changes and additions to sections 3.6 (2)(a)(ii); 3.6 (2)(b)(i), (iv) and (v). She pointed out and reviewed changes to Figure 4. She mentioned that there is a concern regarding the shorter timeline between the deadline date and the meeting date, due to the deadlines for the newspapers. She said that the staff would be working on a proposal to change the deadline timeframe.

She mentioned that the staff is working on revisions to the subdivision forms in order to conform to current practices and reviewed some of the suggested revisions. She reviewed the changes to section (4) (a) and explained how they relate to the new subdivision form. She recapped the proposed changes and additions to sections (4) (c), (d), (g), (h), (i) and (j). She explained that the information in sections (i) and (j) usually comes at the primary approval stage but since an RE is a special case it should come at the sketch plan stage because it is also a rezone case.

Jay Seeger mentioned that in section (i) the rural estate road might not intersect with the public road.

Sallie Fahey agreed.

Jay Seeger suggested changing the wording from "the rural estate road's" to "any rural estate road's".

Sallie Fahey asked if that change would cover the reconstructed private easement.

Jay Seeger replied negatively. He mentioned that he was assuming that the reconstructed private easement was in an acceptable location.

Karl Rutherford mentioned that these changes force the costs to be up front.

Sallie Fahey agreed. She mentioned that it does not include the road design, so that is one expense they would not have and might even save money in the long run. She pointed out that having these requirements, like soil testing and a letter from the Health Department, at an early stage would give more of a guarantee to the County Commissioners that the rezone should be approved.

James Hawley pointed out that an area that was otherwise acceptable and completely wooded might have slopes that render it unusable for septic systems.

Karl Rutherford pointed out that the Commission would not be required to approve a lot that did not have a septic system that was approved by the Health Department.

James Hawley stated that it might be better to stop it at the rezone stage rather than trying to deny the subdivision.

Karl Rutherford pointed out that a 12-lot subdivision soil testing would cost \$3,600 upfront.

James Hawley stated that it was \$125 - \$175 for the soil examination and report.

Brian Keene, G & L Development asked whether on-site sewage disposal was required in section (4)(j) or if wetlands could be used.

James Hawley stated that the County's ordinance required an on-site system.

KD Benson asked if on-site meant within the rural estate.

Steve Schreckengast asked if Karl Rutherford was simply trying to verify everything that would be included in the costs.

Karl Rutherford pointed out that a lot of the complaints they hear come from the upfront costs of PDs.

Jack Rhoda asked if the Erosion Control Plan would also apply to the subdivision stage.

Sallie Fahey replied affirmatively.

James Hawley stated that any lot altered down to one acre would require the Erosion Control Plan.

Steve Schreckengast asked for elaboration on section (h).

Sallie Fahey explained that section (h) has always been somewhere in the ordinance but never had a home.

Steve Schreckengast asked who would make the determination on section (h).

Sallie Fahey stated that there was not any set criteria. She said that the staff would view it by consensus. She pointed out that if the road were to be public, the Highway Department would require that all trees be cleared in the right-of-way and if it were to be in an easement, the utilities would require that it be cleared. She explained that the staff's point of view would be to look at what could be done to save trees and topography.

Steve Schreckengast asked how staff would know what was planned to be taken down.

Sallie Fahey replied that the petitioner is required to provide evidence that they have exhausted every option. She reiterated that this issue has been part of the RE ordinance since its inception.

James Hawley stated that there would inevitably be some damage to the area due to septic systems and construction, but the goal was to minimize the damage.

Jay Seeger pointed out a language change needed in section (4)(h).

Sallie Fahey recapped the proposed changes and additions in sections (5), (8)(a)(i)(iv) and (vii).

Steve Schreckengast asked for clarification on (vii).

Sallie Fahey explained that the intent was for existing private drive and its easement.

Steve Schreckengast stated that he wanted it to be clear that it was not required for an outlot. He asked for confirmation that if the private drive was in an outlot, the grant of easement would not be required.

Sallie Fahey explained that Steve Schreckengast was asking about the requirements of a developer-owned easement.

Karl Rutherford stated that in one case the developer would grant the easement and in the other case it would be the property owners.

Sallie Fahey stated that the issue is if the property owners owned the land and the developer has the right to the easement.

Jay Seeger stated that there are not any current developments that have outlots as the road.

Karl Rutherford pointed out that was what was specified as the preferred solution.

Jay Seeger pointed out that those outlots would be transferred over to the homeowners association and the developer would not own them anyway.

Sallie Fahey agreed.

Steve Schreckengast pointed out that if a developer planned on using area in the back of an existing development, it should be arranged upfront rather than asking for permission after the fact.

Jay Seeger stated that if it were arranged up front, then a new easement would not be required.

Steve Schreckengast mentioned that he asked the same question at the last meeting and the answer was that permission would still need to be granted.

Sallie Fahey stated that she thought the question was referring to an easement which the developer informed the owners up front there would be more development in the back, not an easement in an outlot.

Karl Rutherford asked how it could be worded to allow 12 additional lots behind the original 12 lots.

James Hawley stated that the first development could be a public road.

Sallie Fahey asked if it would be acceptable for either the covenants from the first development or the homeowners association documents, to permit the next RE to use the same private road in an outlot

Jay Seeger responded affirmatively. He stressed that it would have to be recorded up front.

Sallie Fahey asked if there were any in existence that would need special treatment.

Steve Schreckengast quoted the minutes from the last meeting, which indicated that this question has been asked and discussed before.

Karl pointed out that they were referring to an outlot.

Steve Schreckengast said that the fact is that the outlot would probably be owned by the homeowners.

Karl Rutherford stated that probably would not happen until after all the development.

Sallie Fahey explained her interpretation of the question discussed at the last meeting. She pointed out that the difference is between developing a 10-acre tract that is behind a parcelization at the end of a private drive with an easement and a RE development with a second RE development behind it.

Karl Rutherford pointed out that the developer might not be able to anticipate whether a second RE will be put in behind the first, and not obtain the permission up front.

Sallie Fahey stated that the concept of overburdening was not something they were aware of when the RE ordinance was written.

Steve Schreckengast pointed out that the outlot would be owned by the homeowners association.

James Hawley pointed out that once the development was completed the outlot would go to the homeowners association and the developer would no longer have any rights.

Sallie Fahey suggested writing language that would be required in the deed of the outlot from the developer to the homeowners that would permit it, regardless of whether there were plans for future development or not. She explained that it would be in every deed from a developer to a homeowners association of the outlot, then if there was any development by any developer beyond that subdivision, permission would already be granted.

Jack Rhoda stated that the homeowners would not have any say at all.

Sallie Fahey pointed out that the homeowners would know that before buying their lots.

Steve Schreckengast pointed out that it would be recorded with the lot and would be part of the deed.

James Hawley pointed out that other things besides homes could be built behind a development that could adversely affect the use of the road.

Steve Schreckengast suggested using a vehicle that anyone buying a lot waived their right to oppose any legal residential use in back of their development.

Jay Seeger responded affirmatively. He mentioned that if a blanket waiver is used then they are not creating an easement in that case. He said that essentially they are waiving the right to make a claim of overburdening.

James Hawley mentioned Karl Rutherford's comment that when more than one of these connects, the front piece must be a public road. This was removed before the ordinance was finalized.

Sallie Fahey pointed out that could create a public RE road that may or may not have ended in a standard cul-de-sac.

Steve Schreckengast mentioned that a farm could be on the other side and then it would be used to run trucks up and down it.

Sallie Fahey stated that if the language could be written, it could be restricted to single family homes in an RE district.

Steve Schreckengast mentioned that the property owners have to pay taxes on the road, but not if it is public.

Karl Rutherford suggested revisiting this topic at the next meeting.

Sallie Fahey reviewed and explained changes and additions in sections (8)(b), (8)(e), (9)(a), (9)(a)(i), (9)(a)(ii), (9)(a)(iv), (9)(b), (9)(c), (10)(a), (10)(a)(i), (10)(a)(iii) and (10)(a)(v).

James Hawley asked if it should be specified in section (10)(a)(v) that performance bonds be 100% of the cost of installation.

Sallie Fahey explained that was not necessary because they are still subject to section (4), which covers all bonding issues.

Steve Schreckengast asked for elaboration on section (10)(a)(v).

Sallie Fahey stated that the developer could do all the improvements that they wanted but until they were accepted for maintenance or certified by a surveyor, the final plat cannot be recorded in building permits until they are bonded for the full amount. She said that there are two ways that the County would maintain a drainage facility: they maintain side ditches in a public road right-of-way and they maintain anything with in a regulated drain. She mentioned that there are a few detention ponds that are part of a regulated drain, but that is not common. She reviewed and explained changes and additions in section (10)(a)(vi).

Steve Schreckengast asked for elaboration on section (10)(a)(vi).

Sallie Fahey explained that she understood that Registered Land Surveyors can design anything except for public water mains.

Brian Keene stated that they can design, but questioned whether they could certify that it was correct.

Sallie Fahey stated that they would double-check that.

Karl Rutherford suggested adding the work "shall" to section (10)(a)(vi).

Sallie Fahey pointed out that it was included on page 10.

Mark Hermodson suggested using a set of brackets to clarify the wording.

Sallie Fahey reviewed and explained changes and additions in sections (10)(a)(vii), (10)(a)(viii) and (10)(a)(ix).

Steve Schreckengast asked if a homeowners association would be necessary if there was no common area and no common drainage facility.

Sallie Fahey asked KD Benson how likely it would be for these developments not to need a drainage facility.

KD Benson replied that most subdivisions would need some kind of facility.

Sallie Fahey stated that she would like to give that situation some thought and would look at the language for 7, 8 and 9. She reviewed and explained changes and additions in sections (10)(b), (10) (b)(i), (11)(a)(i), (11)(a)(ii), (11)(b), (11)(c)(i), (11)(c)(ii) and (11)(c)(iii).

Steve Schreckengast asked for clarification on the time frame involved.

Sallie Fahey stated that 5 years is allowed between the time the preliminary plat is approved and the final plat has to be recorded, with the opportunity for one two-year extension.

Jack Rhoda asked if that was the same for a planned development.

Sallie Fahey stated that it was the same as a subdivision, without the limitation of one extension, but that the rules for a PD were different.

James Hawley reiterated that the agenda items that were continued to the July 2, meeting would not interfere with filing deadlines.

Jan Mills reiterated that Sallie Fahey would not be here for the July 2 meeting and that Sallie Fahey would not be needed for the agenda items that were continued, so the focus tonight was on the RE issue.

V. CITIZEN COMMENTS

VI. ADJOURNMENT

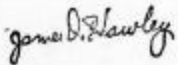
Mark Hermodson moved to adjourn. Jack Rhoda seconded and the motion passed by voice vote.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



James D. Hawley, AICP
Executive Director